

**IDAHO BOARD OF COSMETOLOGY**  
**Bureau of Occupational Licenses**  
700 West State Street, P.O. Box 83720  
Boise, ID 83720-0063

**Board Meeting Minutes of 2/3/2014**

**BOARD MEMBERS PRESENT:** Debra J Hummel - Chair  
Linda Swope  
Merrilyn Cleland

**BOARD MEMBERS ABSENT:** Christy Duplantie  
Bonnie D. Sermon

**BUREAU STAFF:** Tana Cory, Bureau Chief  
Dawn Hall, Administrative Support Manager  
Lori Peel, Investigative Unit Manager  
Maurie Ellsworth, Legal Counsel  
Eric Nelson, Board Prosecutor  
Roger Hales, Legal Counsel  
Kim Aksamit, Technical Records Specialist

**OTHERS PRESENT:** Laurie Rowen, Tyler Price, Ty Walker, Ryan Evans, Rick Evans, Peggy Foster, Katie Parkinson, Barb Deltaan, Leslee Grubb, Ronda Clark, LaDonn Goodfellow, Jennifer Rodgers, Kathy Hopkins, Tony Smith, Marie Gentle, Nydia Lovell, Kris Ellis, Larry Benton, David Leroy, Korinne Sword, Representative Gannon, and Representative Packer.

The meeting was called to order at 8:30 AM MST by Mary Lambert.

**APPROVAL OF MINUTES**

Ms. Swope made a motion to approve the minutes of October 7, 2013; November 18, 2013; December 16, 2013; December 30, 2013; January 14, 2014; and January 24, 2014. It was seconded by Ms. Cleland. Motion carried.

**LEGISLATIVE REPORT**

Mr. Hales discussed the proposed law and rule changes. Mr. Hales said that the proposed rule changes have been approved by the House and will be presented to the Senate soon.

The Board also proposed a law change to provide for an exemption for a person practicing upon a relative in a relative's home, to clean up the language regarding the apprenticeship training programs, and to clarify the Board's school owner position.

Mr. Hales said that during the print hearing in the House Business Committee there was a lot of discussion about the requirements to practice in a shop and sanitation rules. The majority of the discussion was on the following change to Idaho Code § 54-804, (3) which reads that there is an exemption for "Persons practicing in their own home without compensation and not practicing on the public in general." The Board's proposal would have added an exemption for "Persons practicing on a relative in the relative's home without compensation." At the end of the print hearing and discussion on other issues there was a motion to send the legislation to the amending order. The amendment eliminated "in a relative's home" so it now reads "Persons practicing on a relative without compensation." The Board agreed in a meeting on January 14, 2014 that it was comfortable with that approach.

Mr. Hales said he would follow up with legislators regarding the Board's agreement with the Committee's amendment. At the hearing, legislators again discussed other exemptions. Rep. Gannon was interested in allowing an unlicensed person to do five haircuts a month for compensation and Rep. Monks discussed an amendment to allow anyone to provide services without licensure as long as they did not receive compensation. The House Business Committee then voted to send the bill to the amending order with these amendments.

Ms. Cory added that Rep. Monks and Rep. Gannon were on the agenda later in the meeting. Also invited to today's meeting were Rep. Crane, who proposed the first amendment; Rep. Thompson, who is the Chair of the House Business Committee; and Rep. Packer, who the Board invited because of her experience with this profession.

## **FINANCIAL REPORT**

Ms. Hall gave the financial report, which indicated that the Board has a cash balance of \$1,632,052.00 as of 01/31/2014.

## **MEMORANDUM**

Mr. Nelson, Board Prosecutor, presented to the Board a Memorandum. Regarding cases COS-2014-56, COS-2013-114, COS-2014-43/47, COS-2014-53, COS-2014-60,

COS-2014-41, COS-2014-57, COS-2014-58, COS-2014-59, COS-2014-23/24, and COS-2014-40, the Board made its recommendations to its prosecuting attorney.

## **CONSENT ORDERS**

Mr. Nelson, Board Prosecutor, presented to the Board several Stipulation and Consent Orders on cases COS-2013-74 & 75, COS-2013-92 & 93, COS-2013- 94 & 95, COS-2013-97, COS-2013-115 & 116, COS-2014-9, and COS-2014-10. Ms. Cleland made a motion to accept the Stipulation and Consent Orders as signed and authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

## **EXECUTIVE SESSION**

Ms. Swope made a motion that the Board go into executive session under Idaho Code § 67-2345(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Ms. Cleland. The vote was: Ms. Hummel, aye; Ms. Cleland, aye; and Ms. Swope, aye. Motion carried.

Ms. Cleland made a motion to come out of executive session. It was seconded by Ms. Swope. The vote was: Ms. Swope, aye; Ms. Hummel, aye; and Ms. Cleland, aye. Motion carried.

## **INVESTIGATIVE REPORT**

Ms. Peel gave the investigative report, which is linked above.

## **FOR BOARD DETERMINATION**

Ms. Cleland made a motion to approve the Bureau's recommendation and authorize closure in cases I-COS-2013-86; I-COS-2013-102; I-COS-2013-113; I-COS-2013-122, I-COS-2013-123; I-COS-2013-153; I-COS-2013-159; I-COS-2014-16; I-COS-2014-26; I-COS-2014-47; and I-COS-2014-49. It was seconded by Ms. Swope. Motion carried.

## **DISCIPLINE**

Ms. Peel presented a memorandum regarding case numbers COS-2014-27 and COS-2014-28; COS-2014-29 and COS-2014-30; COS-2014-42; COS-2014-69 and COS-2014-70. After discussion, the Board gave recommendations for appropriate discipline.

Ms. Peel presented a Stipulation and Consent Order in cases COS-2013-87/88, COS-2014-11, COS-2014-12, COS-2014-13/14, COS-2014-15, COS-2014-16,

COS-2014-17/18, COS-2014-19/20, COS-2014-21/22, COS-2014-32, COS-2014-33, COS-2014-34/35, COS-2014-36/37, COS-2014-38/39, COS-2014-44/45, COS-2014-46, COS-2014-48/49, COS-2014-54/55, COS-2014-61/62, COS-2014-63/64, COS-2014-65/66. Ms. Cleland made a motion to approve the Consent Orders and allow the Board Chair to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

## **MONTHLY REPORTS FROM ECHO LUNDEBERG**

The Board reviewed the monthly reports submitted by Echo Lundeborg.

## **OLD BUSINESS**

### **BOARD NEWSLETTER**

Ms. Cleland addressed the Board regarding the Board newsletter. The Board directed the Bureau to work with Ms. Cleland on the newsletter.

## **DISCUSSION WITH LEGISLATORS**

The Chair welcomed Rep. Gannon and Rep. Packer to the meeting. She noted that Rep. Gannon and Rep. Monks were invited to the meeting to discuss their proposed amendments, but Rep. Monks was not present. She also noted that Rep. Packer was invited by the Board because of her familiarity with the industry. She introduced the Board. She let the legislators know that the audience was made up of licensees and school owners who regularly attend meetings and that the Board regularly consults with them on legislation to ensure all concerns have been addressed prior to bringing a bill to the Legislature.

She explained that the Board is made up of private sector licensees who basically volunteer to serve on the Board and that the Board is charged with public protection. She said that while the Board is charged with public protection, it also wants to ensure that the Board is not making it difficult for individuals to get licensed or to continue practicing.

The Chair said that the Board currently has a subcommittee looking at its laws and rules and inquired whether Rep. Gannon's proposed amendment to the Board's bill, which would allow individuals to provide up to five haircuts per month for compensation without needing to be licensed, and Rep. Monks' proposed amendment, which would allow anyone to provide services without licensure as long as they did not receive compensation could be considered by the Board's subcommittee. She said there were some items the Board pursued this year in order to resolve a couple of issues that they did not want to wait another year on. One was to ensure the law was clear on the fact that school owners are represented on the Board and the other was to address a situation where a young lady wanted to take care of her grandmother's hair.

The Chair said both of these items were included in the Board's bill that was presented during the print hearing in the House Business Committee. At that time, Rep. Crane offered an amendment to the Board's bill that eliminated the wording, "in a relative's home" with regard to the exemption for providing services to a relative.

Chair Hummel said she understood from Board Member Cleland and staff who attended the print hearing that Rep. Monks discussed expanding this exemption so anyone can practice on anyone as long as there is no compensation. She said she also understood that Rep. Gannon discussed allowing someone to cut hair and charge fees for up to five people a month without needing to be licensed. She said that she understood that while the House Business Committee did accept Rep. Crane's motion, the Committee did not take any action on the other discussion. She said the Board held a special meeting to discuss Rep. Crane's amendment and it concurred with these changes. The Board then directed staff to present the bill with Rep. Crane's amendment. During the bill presentation, the issues regarding five haircuts and practicing without compensation were again raised by Rep. Gannon and Rep. Monks. Rep. Gannon made a motion in the Committee to send the bill to the amending order to add amendments. She said the Board had invited Rep. Monks and Rep. Gannon to today's meeting to discuss their proposed amendments.

The Chair said she appreciated Rep. Gannon being at the Board meeting. She asked him to tell the Board what issue had arisen in his district regarding these so that the Board may have the benefit of knowing where these concerns are coming from so they can figure out a way to proceed.

Rep. Gannon said that there was a question raised about the word "relative" and how it is defined. He explained that the discussion they had in the House Business Committee then went on to the uncompensated haircuts in your home as long as services are not done on the public and it then moved into the recommendation of limiting these to five haircuts. He stated that after reading the statute it could also mean any other kind of cosmetology related services such as perms. Mr. Hales stated that it relates to the exemption it doesn't not limit the services to haircuts, it talks about persons practicing in their home which could include cosmetology services beyond a haircut.

Rep. Gannon stated the Committee discussion had covered options of unlicensed people having the ability to perform five haircuts a month and receive compensation.

Ms. Cleland addressed Rep. Gannon. She explained that the House Business Committee had concerns with the original language presented to the Committee. They brought those concerns to the Board and the Board amended the proposal to lessen the concerns with the language. She explained that she is a business

owner in Rep. Monks' district and that she was a little taken back that the concerns about five haircuts were not brought to the Board and discussed and that the Committee decided to send the bill to the amending order without any input from the licensees. Ms. Cleland explained that the Board is not paid by the taxpayers but supported by licensees. It was also her understanding that the Legislature passed a bill regarding negotiated rule making and the expectation that the Board inform all interested parties and stakeholders so that they and the public have an opportunity to have input. The Board always conducts its business in an open meeting so all interested parties have an opportunity to attend and comment on issues being considered by the Board. The Board would like that same consideration when laws that affect their profession are being discussed or proposed.

Ms. Cleland explained to Rep. Gannon that the discussions in the Committee did not address public safety. She said that cosmetologists as professionals deal with contagious diseases on a routine basis and are trained for safe practice. The training received is considered post-secondary education and cosmetologists are trained in disease control and proper use of chemicals that have the potential for burning and causing issues. The Board cannot go into private homes and monitor what individuals are doing in those homes. If the law allowed untrained and unlicensed people five haircuts, or perms, or chemicals there could be burns and transmission of disease. Ms. Cleland explained that it would be very difficult to regulate and protect the public. Rep. Gannon explained that it was their thought that there are people out there doing this now. Ms. Hummel said she is sure there is and always will be regardless, but if you give them permission to do it, you will have a free-for-all.

Rep. Packer, said that the big distinguishing factor here is the compensation. The Board regulates services provided for compensation. She said that when people pay money for something, they have an expectation of a quality service being provided. She discussed the Board's role of protecting the public.

Ms. Hummel asked Rep. Gannon if there was something that brought this issue to his attention and is the reason he proposed the amendment. Rep. Gannon said it arose from the House Business Committee discussion. He said he agreed with Board Member Cleland that it is something that the Board should have time to review and evaluate. Ms. Cleland said that it was the fact that the Committee had the discussion and did not involve the Board, the industry, or the public before the bill was sent to the amending order. There was no opportunity for comment.

The Chair then asked members of the audience if they would like to comment.

Ms. Foster with Headmasters School in Lewiston addressed the Board and said that she has been attending Board meetings for 40 years and was here when these laws and rules got started. She said that the exemption being discussed

was there in the early days and the Board decided that practicing without compensation in your own home meant on members of your immediate family. Allowing five haircuts to be performed without licensure and charging undercuts business people who pay taxes, workers compensation, and unemployment. But she also said it doesn't matter if you get money or not, it's what you are doing to protect the public and opening this up to anyone to practice outside of a licensed facility would be taking away the Board's number one function of protecting the public.

Mr. Evans with Evans Hairstyling in Rexburg expressed concerns about the ability to regulate that people are only doing five haircuts without licensure.

Ms. Cory noted the time and apologized if other members of the audience wanted to comment, however she stated the representatives needed to get back to the Legislature as they were going on the floor shortly. She thanked Rep. Gannon for coming to discuss his amendment. She also thanked Rep. Packer, who is not on the Committee, but has been involved in the industry for accepting the Board's invitation.

She said that the Board is always willing to discuss issues and consider proposed changes and that by contacting the Bureau you can request to be added to the Board's agenda. That was the process with the original bill proposed by the Board. Sen. Cameron had contacted the Bureau about a student who wanted to cut her grandmother's hair in the nursing home and wasn't allowed to under the current exemption. Then when Rep. Crane wanted to broaden the language further, the Board considered it and concurred. However, the Board and interested parties were not given the chance to be involved in these amendments. Rep. Gannon said he didn't think this was that big of a deal in fact he doesn't think anyone on the committee realized it was that big of a deal. He suggested that maybe the Board can look it over and see how they feel about it next year.

Ms. Cory said that she will follow up with Rep. Crane and let him know about the visit with Rep. Gannon and then will follow up with Rep. Monks.

Ms. Cleland made a motion that if the amendments that Rep. Monks and Rep. Gannon have made go forward, that the Board send a postcard to all licensees regarding the amendments to H-363. It was seconded by Ms. Swope. Motion carried. The Board also directed Ms. Cory to follow up with Rep. Gannon and Rep. Monks about pulling their amendments.

## **OLD BUSINESS**

Ms. Hall asked the Board for direction on what it would like the Bureau to do when an apprentice supervisor does not respond to the Bureau regarding an update on the apprentice. The Board suggested putting a 30 day deadline in the

letter and if they do not respond it will be turned over to the investigative unit. The law and rule subcommittee will discuss other options for regulating apprenticeships at their next meeting.

## **NEW BUSINESS**

Ms. Foster asked the Board about paying for the cost of the testing room with DL Roope. The Board will check with DL Roope to see if the Board was to cover the testing site if that would that lower the cost of the examination.

## **DL ROOPE CONTRACT**

Ms. Swope made a motion to accept the DL Roope Administrations, Inc. testing contract for FY2015 and authorize Ms. Cory to sign on behalf of the Board. It was seconded by Ms. Cleland. Motion carried.

## **EXECUTIVE SESSION**

Ms. Cleland made a motion that the Board go into executive session under Idaho Code § 67-2345(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Ms. Swope. The vote was: Ms. Cleland, aye; Ms. Swope, aye; and Ms. Hummel, aye. Motion carried.

Ms. Swope made a motion to come out of executive session. It was seconded by Ms. Cleland. The vote was: Ms. Cleland, aye; Ms. Swope, aye; and Ms. Hummel, aye. Motion carried.

## **APPLICATIONS**

Ms. Swope made a motion to accept the applications for applicants 901131013, 901131140, and 901131368 and issue a license once the Board receives their hours from the school. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to accept the applications for Tina Langdon, Chelsie Squillace, and Sarah Diaz and issue a license. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to accept the application for MyLoan Tran and issue a license. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to accept the application for Michael Macklin and issue a license. It was seconded by Ms. Cleland. Motion carried.



Ms. Cleland made a motion to have Esta Pettet take the full examination and issue a license once the examination has been successfully passed. It was seconded by Ms. Swope. Motion carried.

Ms. Cleland made a motion to have Cassie Brown take the full examination and issue a license once the examination has been successfully passed. It was seconded by Ms. Swope. Motion carried.

Ms. Swope made a motion to accept the application for applicant 901131119 pending the approval of the laws and rules being added to the curriculum. It was seconded by Ms. Cleland. Motion carried.

Ms. Cleland made a motion to accept the apprenticeship application for An Huynh at Luxury Nail and Spa. It was seconded by Ms. Swope. Motion carried.

Ms. Cleland made a motion to deny the retail cosmetics dealer application for PYT based on the fact they are touching the hair without a cosmetology or establishment license. It was seconded by Ms. Swope. Motion carried.

Ms. Swope made a motion to accept the nail technology curriculum for the Paul Mitchel School- Boise. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to waive the fee for a licensee based on a correspondence that was received regarding a medical condition. It was seconded by Ms. Cleland. Motion carried.

## **EXECUTIVE SESSION**

Ms. Cleland made a motion to go into executive session per Idaho Code 67-2345(1)(f) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the executive session was to discuss COS-2013-43. It was seconded by Ms. Swope. Motion carried. The vote was: Ms. Cleland, aye; Ms. Hummel, aye; and Ms. Swope, aye.

Ms. Swope made a motion to come out of executive session. It was seconded by Ms. Cleland. Motion carried. The vote was: Ms. Swope, aye; Ms. Hummel, aye; and Ms. Cleland, aye.

Ms. Swope made a motion to deny the request for reconsideration for Heritage Assisted living. It was seconded by Ms. Cleland. Motion carried.

**NEXT MEETING** was scheduled for June 2<sup>nd</sup>, 2014.

## **ADJOURNMENT**

Ms. Swope made a motion to adjourn the meeting at 12:35 pm MST. It was seconded by Ms. Cleland. Motion carried.

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Debra J Hummel, Chair

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Bonnie D. Sermon

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Linda Swope

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Christy Duplantie

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Merrilyn Cleland

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Tana Cory, Bureau Chief